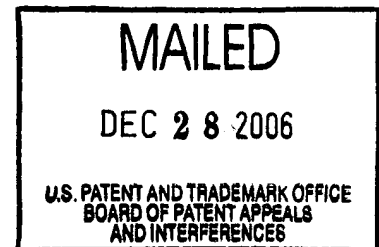


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte JAN PHILLIPPE EIRAS
AND MARTIN RIPPER

Application No. 10/065,793



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on November 8, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Information Disclosure Statement (IDS) was filed December 20, 2002. It is not clear from the record whether the examiner considered the IDS or whether the

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examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

March 22, 2006, appellants filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map the independent claim to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

In addition, the Examiner’s Answer mailed June 15, 2006, does not fully in comply with the requirements of 37 CFR § 41.37. The following heading needs to be included in accordance with MPEP § 1207.02:

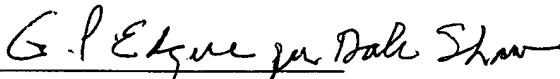
“Related Proceedings Appendix” – Copies of any decisions rendered by a court or the Board in any proceeding identified by the examiner in the “Related Appeals and Interference” section of the answer.

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Accordingly, it is ORDERED that the application is return to the
Examiner to:

- 1) consider the Information Disclosure Statements filed December 20, 2002;
- 2) provide appropriate written notification by the examiner to appellants of such consideration; and
- 3) hold the Appeal Brief filed on March 22, 2006, defective;
- 4) notify appellants to file a supplemental Appeal Brief compliance with 37 CFR § 41.37;
- 5) vacate the Examiner Answer mailed June 15, 2006, in response to the supplemental Appeal Brief, and submit a revised Examiner's Answer in accordance with the new rules effective September 13, 2004; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES


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